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3 **UNITED STATES DISTRICT COURT**
4 **DISTRICT OF NEVADA**

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6 Estate of Nekiyo Dewayne Graves, by
7 and through Eureka Graves as next-of-kin,
8 personal representative and its Special
9 Administrator Shannon L. Evans; Eureka
10 Graves, an individual,

11 Plaintiffs,

12 v.

13 Nye County, et al.,

14 Defendants.

Case No. 2:20-cv-02359-JAD-DJA

Order

15 Before the Court are Plaintiffs' motion for leave to file an amended complaint (ECF No.
16 25), Plaintiffs' motion to substitute a party (ECF No. 27) and the parties' stipulation for an
17 extension of time (ECF No. 33). Because Defendant does not oppose Plaintiffs' motions, the
18 Court grants them and grants the stipulation in part. The Court finds these matters properly
19 resolved without a hearing. LR 78-1.

20 **I. Background.**

21 In response to Plaintiffs' motion for leave to file an amended complaint, Defendants
22 explained that they did not oppose Plaintiffs' motion. (ECF No. 26). Rather, they used the
23 motion to address inaccuracies, the fact that Plaintiffs substituted Shannon Evans as Special
24 Administrator without seeking leave of court, and the need for an extension. (*Id.*). Plaintiffs
25 reply that they have since filed a motion to substitute Shannon Evans to correct the oversight and
26 that an extension request is better sought in a stipulation. (ECF No. 28).

27 In their motion to substitute Shannon Evans as Special Administrator of Nekiyo Graves'
28 estate Plaintiffs assert that they seek to substitute Ms. Evans not as a party, but only as the estate's

1 administrator. (ECF No. 27). They explain that this change will not impact the litigation. (*See*
2 *id.*). Defendants did not respond.

3 The parties then stipulated to an extension of time, requesting a ninety-day extension.
4 (ECF No. 33). Alternatively, the parties sought a stay pending this Court's decision on Plaintiffs'
5 motion to amend. (*See id.*). They assert that a stay—or extension—will allow discovery to
6 include anticipated parties that Plaintiffs have requested to add. (*See id.*).

7 **II. Discussion.**

8 In cases where a party is not amending their pleading as a matter of course, they may
9 amend “only with the opposing party’s written consent or the court’s leave. The court should
10 freely give leave [to amend] when justice so requires.” Fed. R. Civ. P. 15(a)(1)-(2). The failure
11 of an opposing party to file points and authorities in response to any motion...constitutes a
12 consent to the granting of the motion. LR 7-2(d). A request to extend made within twenty-one
13 days of the subject deadline must be supported by good cause. LR 26-3.

14 Here, the Court grants Plaintiffs’ motion for leave to amend, Plaintiffs’ motion to
15 substitute, and the parties’ stipulation to extend in part. The Court also encourages the parties to
16 stipulate to unopposed motions in the future. Regarding the motion for leave to amend,
17 Defendants have expressly not opposed, but used their response to preserve arguments and point
18 out deficiencies. Regarding the motion to substitute, Defendants did not respond, constituting
19 their consent. Regarding the stipulation to extend, the Court finds that the parties have
20 demonstrated good cause to extend discovery deadlines.

21 Notably, however, both the motion for leave to amend and the motion to substitute could
22 easily have been stipulations. For example, the parties could have addressed Defendants’ issues
23 regarding the motion for leave to amend in a meet and confer and resolved them beforehand. The
24 same is true of the motion to substitute. Indeed, it appears that the only reason the parties
25 stipulated to extend deadlines is because the Court ordered them to communicate. The parties are
26 thus directed to attempt to stipulate before bringing motions, if not to resolve all issues, at least to
27 narrow them. Stipulating also allows the Court to reach unopposed motions earlier, instead of
28 waiting for responsive briefing for a motion to become ripe.


1 **IT IS THEREFORE ORDERED** that Plaintiffs' motion to amend (ECF No. 25) is
2 **granted.** Plaintiffs are directed to file and serve the amended pleading in compliance with LR
3 15-1.

4 **IT IS FURTHER ORDERED** that Plaintiffs' motion to substitute (ECF No. 28) is
5 **granted.**

6 **IT IS FURTHER ORDERED** that the parties' stipulation to extend (ECF No. 33) is
7 **granted in part.** The following deadlines shall govern discovery:

Amend pleadings and add parties:	Monday, February 7, 2022
Initial expert disclosures:	Monday, March 7, 2022
Rebuttal expert disclosures:	Tuesday, April 5, 2022
Discovery cut-off:	Thursday, May 5, 2022
Dispositive motions:	Monday, June 6, 2022
Pretrial order: ¹	Tuesday, July 5, 2022

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16 DATED: November 22, 2021

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19 DANIEL J. ALBREGTS
20 UNITED STATES MAGISTRATE JUDGE
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27 _____
28 ¹ If dispositive motions are filed, the deadline for filing the joint pretrial order will be suspended until 30 days after decision on the dispositive motions or further court order. LR 26-1(b)(5).